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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,086	02/10/2004	Lyn Rosenboom	457009-3	2352

7590

10/17/2005

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EXAMINER

JULES, FRANTZ F

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/776,086	ROSENBOOM, LYN	
	Examiner	Art Unit	
	Frantz F. Jules	3617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application:
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7-9 and 12 is/are rejected.
- 7) ☒ Claim(s) 3-6, 10-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

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## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities:

On page 9, line 4, reference number 66 has been used to identify a spherical bushing while reference number 76 has been used on page 8, line 2 to identify a spherical bushing.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, the recitation of "a cart comprising two of the track assemblies as defined in claim 8" is indefinite as lacking a proper preamble in conformance with current office practice.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Pennington et al (US 1,368,652).

Pennington et al disclose a track assembly comprising a frame having a first end and a second end; a first idler wheel (14) operably associated with said frame at said first end of said frame; a link (20) pivotally connected at said second end of said frame at a pivot member (21) to pivot in a generally vertical plane about a pivot axis defined by said pivot member, an imaginary dividing plane being defined by a vertical extension of said pivot axis; a second idler wheel operably provided on said link; a tensioning device (40) between said frame and said link to maintain an axis of said second idler wheel below said pivot member and on a side of said imaginary dividing plane opposite from said first idler wheel; and a continuous track (15) provided around said first and second idler wheels, said continuous track having a tread portion formed by a lower span of said continuous track.

The track assembly being two in a vehicle cart.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pennington et al (US 1,368,652) in view of Nakamura (US 3,951,483).

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Pennington et al teach all the limitations of claims 1 and 7 except for an elongated spindle tiltably connected to the frame to tilt from side to side. The general concept of providing an elongated spindle tiltably connected to the frame to tilt from side to side to a vehicle frame is well known in the art as illustrated by Nakamura which discloses the teaching of an elongated spindle (4) tiltably connected to the frame to tilt from side to side using conical roller bearing. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Pennington et al to include the use of an elongated spindle tiltably connected to the frame to tilt from side to side in his advantageous track assembly as taught by Nakamura in order to provide a bearing which has a great load capacity while achieving a longer service life.

Claim 2 and 9

Regarding using a second elongated spindle tiltably connected to said frame as recited in claims 2 and 9, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Pennington et al et al to include the use of a second elongated spindle tiltably connected to said frame in his advantageous system, as the duplication /reduction of identical parts which perform essentially the same function is a common occurrence throughout the axle frame for track vehicle design arts, and the specific number of tiltable elongated spindle used on a track assembly would have been an obvious duplication of parts, depending upon such common factors as the load rating of the spindle or axle, the yield strength of the spindle material, the maximum allowable speed on the tiltable spindle assembly; the ordinarily skilled artisan choosing the best number of blades which would most optimize the cost and performance of the device

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for a particular application at hand, based upon the above noted common design criteria.

***Allowable Subject Matter***

8. Claims 3-6 and 10-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Crabb and Johnson et al are cited to show a related track assembly with a link tensioning member.

Bien is cited to show a related axle tiltably connected to the vehicle bogie.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 272-6681. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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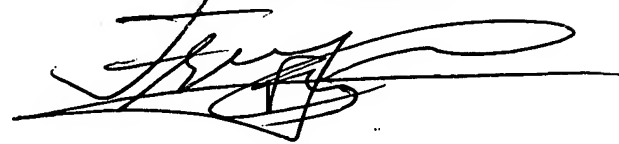
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules  
Primary Examiner  
Art Unit 3617

FFJ

October 11, 2005

**FRANTZ F. JULES**  
**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Frantz F. Jules', with a long horizontal flourish extending to the right.